

REMARKS

I. Claim Rejections Under 35 U.S.C. §103

Requirements for Prima Facie Obviousness

The obligation of the examiner to go forward and produce reasoning and evidence in support of obviousness is clearly defined at M.P.E.P. §2142:

“The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness.”

The U.S. Supreme Court ruling of April 30, 2007 (KSR Int'l v. Teleflex Inc.) states:

“The TSM test captures a helpful insight: A patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art. Although common sense directs caution as to a patent application claiming as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the art to combine the elements as the new invention does.”

“To facilitate review, this analysis should be made explicit.”

The U.S. Supreme Court ruling states that it is important to identify a

reason that would have prompted a person to combine the elements and to make that analysis explicit. MPEP §2143 sets out the further basic criteria to establish a prima facie case of obviousness:

1. a reasonable expectation of success; and
2. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a prima facie showing of obviousness by the Examiner (assuming there are no objections or other grounds for rejection) and of a prima facie showing by the Examiner of a reason to combine the references, an applicant is entitled to grant of a patent. Thus, in order to support an obviousness rejection, the Examiner is obliged to produce evidence compelling a conclusion that the basic criterion has been met.

Baldwin in view of Bristol

Office action asserted that Claims 1, 7-8, 12, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPG Pub, 2003/0149752, Baldwin et al. (Baldwin hereinafter) in view of USP, 5,778,387, David M. Bristol. (Bristol hereinafter).

Applicant strongly disagrees with the Office Action assessment. Inter alia, Applicant submits that Baldwin does not disclose a method in a data processing system including identifying desired data from said command line interface displayable within a display area of a data-processing system.

Applicant wish to draw attention to the fact that Applicant has already submitted in the Applicant's previous response of April 05 2009 that paragraphs 0075 and 0100 of Baldwin do not disclose a method in a data processing system including identifying desired data from said command line interface displayable within a display area of a data-processing system. Both paragraph 0075 and 0100

refer to using graphical user interfaces (not command line interfaces) which are used to display graphical objects or the SAN representation. Furthermore, the Abstract does not itself disclose the asserted feature.

For convenience, paragraph 0075 of Baldwin is recited below:

[0075] In related aspects, the invention provides a SAN as described above in which the process displays the hierarchical tree and its associated nodes in a first panel on a display device, such as the operator/administrator console. In a second panel, the process displays interface graphical objects, e.g., list controls, dialog boxes or other editable fields, for modifying one or more attributes of a file system extension policy associated with at least a selected one of the processor groups.

Paragraph [0075] refers to using panels to display hierarchical tree and its associated nodes and to display graphical objects. Nowhere is there disclosed a method in a data processing system including identifying desired data from the command line interface displayable within a display area of a data-processing system.

For convenience, paragraph 00100 of Baldwin is recited below:

[0100] The invention provides, in still further aspects, an improved architecture of a digital data processor of the type used in a storage area network (SAN). The digital data processor, which can be the aforementioned manager digital data processor, executes a process, herein referred to as a manager process, to maintain a representation of the SAN topology or at least an attribute thereof. A graphical output device displays the SAN representation. A further process, herein referred to as a user interface process, controls the output device for purposes of displaying that representation. An interface element, residing on the manager digital data

processor or another data processor, effects retrieval of the SAN representation, for example, in response to a request from the user interface process. It transmits that representation to the user interface process for display on the graphical output device.

Paragraph [00100] refers to using a digital data processor to execute a process, displaying the SAN representation on a graphical output device, and other processes for controlling display, retrieving the representation and transmitting it to the graphical output device. Nowhere is there disclosed a method in a data processing system including identifying desired data from the command line interface displayable within a display area of a data-processing system.

Both paragraph 0075 and 0100 refer to using graphical user interfaces (not command line interfaces) where are used to display graphical objects or the SAN representation. Furthermore, the Abstract does not itself disclose this feature. Despite this technical fact and Applicant's submissions, the present Office Action continues to merely refer to passages from Baldwin without any explanation as to how the Applicant's claimed elements are actually disclosed in Baldwin.

Applicant respectfully submits that the present Office Action has failed to respond to the Applicant's arguments regarding interpretation of Baldwin, as set forth in the previous Request for Continued Examination, and that the outstanding Office Action is, in fact, incomplete. **Consequently, in the event that the Examiner wishes to continue to reiterate the same assertions regarding the interpretation of Baldwin, Applicant respectfully requests that another non-final office action be issued which explains how Baldwin discloses the aforementioned claim elements in order to give the Applicant an opportunity to fully respond to the rejection. Furthermore, Applicant respectfully requests that the Examiner contact the undersigned representative to conduct an interview in an effort to clarify this interpretation of Baldwin.**

The Office Action acknowledged that Baldwin does not teach “automatically saving said desired data in said memory of said data- processing system, in response to identifying said desired data from said command line interface” “testing to determine if said desired data has been deleted from said command line of said command line interface,” “automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface” and “automatically displaying said deleted data within said command line interface, in response to automatically recovering said desired data from said memory.”

With regard to Bristor, this reference is directed to automatically generating user data in which a user recalls the user data by selecting a category corresponding to a letter of the alphabet which is the initial letter of any component of the user data (see for example Abstract of Bristor). This is an entirely different technical problem and field from that of Baldwin which relates to SAN network communication and representation.

Inter alias, the passages of Bristor (see col. 2, lines 61-67, col. 3, lines 1-19 and col. 8, lines 44-50, Bristor) relied on by the Office Action do not, in fact disclose:

“testing to determine if said desired data has been deleted from said command line of said command line interface and automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface” as asserted in the Office Action.

Lines 61-67, col. 3 of Bristor, relied on by the Office Action, recites

“Other history mechanisms are used in text-based user interfaces similar to the c-shell user-interface. For example, some text-based user-interfaces

allow the user to regenerate previously generated user data by pressing arrow keys on a keyboard. Specifically, the user presses an up arrow key at a command prompt to retrieve the most recently entered command.

Contrary to the assertion of the Office Action, this passage does not disclose "testing to determine if said desired data has been deleted from said command line of said command line interface and automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface. This passage merely refers to a user regenerating previously generated user data by pressing arrow keys.

Lines 61-67, col. 3, lines 1-19 of Bristol, relied on by the Office Action recite:

"The user can retrieve any of a number of previously entered commands by repeatedly pressing the up arrow key. The retrieved previously entered command is displayed in a computer display device and the user can alter the retrieved command by pressing other keys on the keyboard. The retrieved command is regenerated by pressing the Enter key of the keyboard.

Another text-based history mechanism uses a hot key to regenerate previously generated user data specified by partial user data. For example, the user presses a few keys on a keyboard and then presses the hot key to regenerate user data whose initial few characters are specified by the pressed keys. The hot key can be, for example, meta-p which is generated by the user by pressing and holding a meta key while concurrently pressing the "p" key. A meta key can be, for example, any of the "Ctrl" and "Alt" keys of a standard keyboard used in workstation computers such as the SPARCstation workstation computer available from Sun Microsystems, Inc. of Mountain View, Calif."

Contrary to the assertion of the Office Action, this passage does not disclose "testing to determine if said desired data has been deleted from said command line of said command line interface and automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface. This passage merely refers to a user regenerating previously generated user data by the user pressing an arrow key or hot key.

In any event, Applicant has amended the claim 1 to refer to ".....testing using the system...." further to clarify the method.

Furthermore, none of the aforementioned passages of Bristor disclose a central processing unit configured to test to determine if said desired data has been deleted from said command line of said command line interface and automatically recover said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface, as claimed in claim 12.

Yet furthermore, Applicant respectfully submits that the Office Action has not provided any credible reason as to why it would be obvious for a person of ordinary skill in the art to combine Bristor with Baldwin nor how the person of ordinary skill in the art combining Bristor with Baldwin can arrive at the claimed subject matter. In this regard, the Office Action merely asserts that

"It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of the cited references because Bristor's teaching would have allowed Baldwin to provide a history mechanism by which a user can recall and regenerate previously generated user data without requiring the user to recall the initial character or characters of the previously generated user data and without requiring the

user to search for the previously generated user data in a chronological list of previously generated user data (see col. 6, lines 1-6, Bristor).”

Applicant respectfully submits that the aforementioned assertion is not a credible reason as to why it would be obvious for a person of ordinary skill in the art to combine Bristor with Baldwin because the Office Action is merely reciting a benefit of Bristor of recalling user data using initial characters without reference to how this technically relates or can be used in Baldwin. As already indicted above, Bristor is directed to automatically generating user data in which a user recalls the user data by selecting a category corresponding to a letter of the alphabet which is the initial letter of any component of the user data (see for example Abstract of Bristor). This is an entirely different technical problem and field from that of Baldwin which relates to SAN network communication and representation and it is difficult to see how this recall feature of Bristor can be used in Baldwin.

Applicant respectfully requests that the Examiner contact the undersigned representative to conduct an interview in an effort to clarify the above reasoning as to why it would be obvious for a person of ordinary skill in the art to combine Bristor with Baldwin.

Having regard to the foregoing, Applicant wishes to draw the attention to the fact that the Office Action has not in fact set forth any reason that would have prompted a person of ordinary skill in the art to combine the elements in the way that the claimed subject matter does.

Applicant also wishes to draw the Examiner’s attention to KSR which expressly instructs that it remains legally insufficient to conclude that a claim is obvious just because each feature of a claim can be independently shown in the cited references (KSR Opinion at p. 14).

Furthermore, even if the person of ordinary skill in the art combined Bristor with Baldwin, the person of ordinary skill in the art would not arrive at the claimed

subject matter. This is because, for the reasons set forth above , neither Bristor nor Baldwin, taken alone or in combination, teach or suggest a method in a data processing system including identifying desired data from said command line interface displayable within a display area of a data-processing system and testing using said system to determine if said desired data has been deleted from said command line of said command line interface; and automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface.

With respect to claim 7, contrary to the Examiner's assertion, Baldwin does not teach "the permitting a user to specify a plurality of rules for recycling said data; recycling said data, in response to user input." Instead, the passages of Baldwin relied on in the Office Action merely relate to how "description data is parsed into components" (see col. 6, line 18 of Bristor) which has nothing do with rules for recycling the data. In Baldwin, the parsed components are always recalled using the corresponding initial characters, there are no recycling rules.

In order to further clarify the recycling feature of claim 7, the claim has been amended to recite "...permitting a user to specify a plurality of rules for determining whether to recycle said data...."

With respect to claim 8, Applicant disagrees with the Office Action assessment. For the reasons set forth above in relation to claim 7, Bristor does not disclose rules for recycling data and cannot therefore disclose prompting said user to specify said plurality of rules.

Having regard to the foregoing, Applicant submits that Claims 1, 7-8, 12, and 16-17 are patentable over Baldwin in view of Bristor. Applicant respectfully requests that the aforementioned rejection to Claims 1, 7-8, 12, and 16-17 be withdrawn.

Baldwin in view of Bristor and further in view of Smith

For the reasons set forth in the Office Action, Claims 2-6 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPG Pub, 2003/0149752, Baldwin et al. in view of USP, 5,778,387, David M. Bristor. as applied to claims 1, 7-8, 12, and 16-17, further in view of (NPL "Using the TSM client command line interface for backup and restore" 2002), Ian Smith (Smith hereinafter).

Applicant disagrees with the assessment set forth in the outstanding Office Action. Inter alias, for the reasons set for above, Baldwin and Bristor do not teach or suggest each and every element of independent claims 1 and 12 and there is no reason to motivate a person of ordinary skill in the art to combine Baldwin with Bristor. Consequently, Applicant submits that the person of ordinary skill in the art would not combine Baldwin with Bristor and Smith. Furthermore, even if such a combination was made (which is not accepted), this would not arrive at the claimed subject matter.

Having regard to the foregoing, Applicant submits that Claims 2-6 and 13-15 are patentable over Baldwin in view of Bristor and further in view of Smith. Applicant respectfully requests that the rejection to Claims 2-6 and 13-15 under 35 U.S.C. 103(a) as being unpatentable over Baldwin in view of Bristor and further in view of Smith be withdrawn.

II. Conclusion

In view of the foregoing discussion, Applicant has responded to each and every rejection of the Official Action. The Applicant has clarified the structural distinctions of the present invention by amendments herein. The foregoing discussion and amendments do not present new issues for consideration and no new search is necessitated. Such amendments are supported by the specification and do not constitute new matter. Accordingly, Applicant respectfully requests

reconsideration and withdrawal of the rejections and further examination of the present application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

Dated: September 23, 2009

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